UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/937,078	01/14/2002	Mark Edmund Hooper	04834-007-US-02	8017

56535 7590 06/07/2007

BROUILLETTE & PARTNERS
METCALFE TOWER, 1550 METCALFE STREET
SUITE 800
MONTREAL, QC H3A-1X6
CANADA

EXAMINER	
SHELEHEDA, JAMES R	
ART UNIT	**PAPER NUMBER**
2623	

MAIL DATE	DELIVERY MODE
06/07/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/937,078
Filing Date: January 14, 2002
Appellant(s): HOOPER ET AL.

Robert Brouillette
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 02/06/07 appealing from the Office action mailed 12/04/06.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is substantially correct. The changes are as follows:

WITHDRAWN REJECTIONS

The following grounds of rejection are not presented for review on appeal because they have been withdrawn by the examiner.

The rejection of claim 29, under 35 U.S.C. 112, first paragraph.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,566,353	Cho et al.	10-1996
7,039,784	Chen et al.	5-2006
6,738,978	Hendricks et al.	05-2004
6,075,551	Berezowski et al.	6-2000

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 28, 29, 31, 32, 36 and 38 stand rejected under 35 U.S.C. 102(b) as being unpatentable over Cho. This rejection is set forth in a prior Office Action, mailed 12/04/06.

Claim 30 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Cho in view of Chen. This rejection is set forth in a prior Office Action, mailed 12/04/06.

Claim 37 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Cho in view of Hendricks. This rejection is set forth in a prior Office Action, mailed 12/04/06.

Claims 32-35 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Cho in view of Berezowski. This rejection is set forth in a prior Office Action, mailed 12/04/06.

(10) Response to Argument

a. On page 14, of appellant's response, appellant argues that Cho teaches that while a user may create a template, that does not mean that each user inputs his/her multimedia content preferences.

In response, it is noted that the claims do not require that "each user inputs his/her multimedia content preferences", as appellant suggests. The claim language merely recites "inputting and storing of data related to the multimedia content preferences of each user of a visual display device."

Thus, a quick review of the claim shows that:

a) data ***related*** to multimedia preferences must be input and stored, the specific multimedia *preferences of each user,* as opposed to data related to multimedia preferences, are *not* required as appellant suggests.

b) while the data related to preferences is input, there is no requirement for ***each user to input*** his/her multimedia content preferences. In fact, there is no specific recitation as to when, how or by whom the data must be input.

In this case, Cho discloses wherein a user, or system operator, may create a playlist template (column 13, lines 7-53) which indicates the preferred types of clips and the preferred order for those clips to be displayed (column 12, line 58-column 13, lines 6 and column 13, lines 35-54). Cho further discloses wherein each user may revise the template, as required (column 13, lines 7-13 and column 13, lines 35-54). Thus, Cho clearly meets the broad claim limitations of "inputting and storing of data related to the multimedia content preferences of each user of a visual display device."

Further, in regards to appellant's argument that a user creating a template to input their preference would prevent others from inputting theirs.

In response,

i. It is once again noted that there is no requirement for each user to input their own preference. The claims merely require the inputting of data relating to each user's preference. In this case, the user's are all operators at the single network management center for customizing content for regional locations (column 3, lines 21-60). Thus, these users are not representative of specific content providers (as in appellant's arguments related to their particular invention and is *not* required by the claims) and thus would all have the same preference to achieve the goal of providing efficiently tailored customized content (column 3, lines 33-42).

The developed templates are reflective of particular preferences of the playlist (ex. preferring to play news, followed by a commercial, etc.)

ii. Further, it is noted that appellant is incorrect in their characterization of Cho, as each user may edit the template as desired (column 13, lines 1-13). While users may be limited in the changes they can make, dependent upon their security level (column 13, lines 7-13), this does not negate the fact that each user can clearly input their own preferences in regards altering/deleting the template structure.

b. On page 16, appellant argues that while a user, according to his/her security level, may edit a playlist, they are not inputting his/her preferences.

In response, as indicated previously, the user may create or edit the template determining which clips are played and their order (column 12, line 58-column 13, lines 6 and column 13, lines 35-54). As the user has specified the desired types of clips and a desired order for the clips to play, a user preference has clearly been entered (column 13, lines 1-6). In the creation of the template, the user has selected actual clips which must be played, merely *types* of clips. The system then uses this preference for a clip ***type*** when building a playlist of actual clips.

c. On pages 14-15, appellant argues that the user of a template is far from being a means by which you input preferences.

In response, it is once again noted that the templates are created by the users to list the preferred types and order of clip playout. This is seen in the Cho reference, wherein the template is designed by the user to ensure balance of the playlist and avoid any undesired order of certain clip types (column 13, lines 1-6). Thus, in this case, the template of Cho clearly qualifies as a user preference, as the user has designed the template to achieve a desired (or preferred) effect.

d. On pages 15-17, appellant argues that Cho fails to disclose "inputting data related to the air time period preferences of each user in said playlist schedule".

As indicated previously, Cho specifically discloses wherein a user will create a template defining the preferred types of clips to be displayed and *the desired order for the clips to be played* (column 12, line 58-column 13, line 13 and column 13, line 35-54). Thus, as the user is defining a template for a particular time period (column 12, lines 49-57) which includes preferences for each particular slot in the schedule (column 13, lines 1-13), the user is inputting data related to air time period preferences. As the user is the one defining the structure of the template, including the preferred order and clip type, the template clearly includes data related to the preferences of the user.

e. On page 17, appellant argues that a user cannot input their preferences, they can only use the air time periods provided by the template.

In response, the user creates the templates to arrange the desired clip types in an order of their choosing (column 12, line 58-column 13, line 13 and column 13, lines 45-53). Thus, the user fills in the template with a preferred clip type in a preferred slot out of the available slots (column 13, lines 1-13 and lines 45-54), thus clearly meeting the claim limitation of inputting user preferences.

f. In regards to appellant's further comments on pages 17-18, in regards to user preferences, please see (a)-(e) above wherein it is clearly seen that Cho's template meets the current claim limitations in regards to entering user preferences.

g. On pages 18-22, appellant argues that Cho does not *optimally correlate* the available air time periods, said air time period preferences and multimedia content preferences.

In response, Cho specifically discloses wherein a user will enter preferences in regards to media content and air time (column 13, lines 1-12 and lines 45-54 and as seen above in (a)-(e)). A playlist is then generated which is based upon the template (column 14, lines 5-19). This generated playlist is specifically designed to optimally provide correlation between the local facility and the displayed content (column 3, lines 22-42 and column 9, lines 26-43). As the playlist is generated based upon a correlation of a selected template (indicating desired clip *types* and display times) and upon specific available clips

related to the particular facility (column 3, lines 22-42 and column 9, lines 26-43), this clearly meets the current claim limitations. As the templates merely define desired clip ***types,*** and not specific clips, the playlists are generated based upon correlating these templates with the actual clips pertinent to the local area, and are thus considered optimal as broadly recited in the claim.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

James Sheleheda
Patent Examiner
Art Unit 2623

JS

Conferees:

Andrew Koenig

ANDREW Y. KOENIG
PRIMARY PATENT EXAMINER
Acting SPE-AU 2623

Scott Beliveau

SCOTT E. BELIVEAU
PRIMARY PATENT EXAMINER
Acting SPE